

**GOVERNMENT OF ANDHRA PRADESH
ABSTRACT**

TECHNICAL EDUCATION – Appeal Petition filed by President, Bapatla Engineering College, Bapatla, Guntur District against the Proceedings of Commissioner of Technical Education, Andhra Pradesh, Hyderabad dt.23.4.2007 – Appeal Petition upheld – Orders – Issued.

HIGHER EDUCATION (EC.2) DEPARTMENT

G.O.Rt.No. 89

Dated:16.02.2010.
Read the following:-

- 1) Progs of the DTE No.E4/34755/02-Vol.II, dt.23.4.2007.
- 2) Appeal No.Nil of 2007, dt.15.5.2007 of the President, Bapatla Engineering College, Bapatla, Guntur Dist. Dt.15.5.2007.
- 3) Orders of Hon'ble High Court of Andhra Pradesh dt.7.7.2009 in WP No.13392 of 2009.

O R D E R :

The President, Bapatla Engineering College imposed the punishment of reduction in Rank on Sri N.Subba Rao and reverted him from the post of Senior Mechanic to Lab. Technician in the Scale of Pay of Rs.2870-5470 with a basic pay of Rs.2870/-, Dt.22.8.2005

2. In consequence of the punishment orders, Sri N.Subba Rao has filed Appeal Petition before the Commissioner of Technical Education, Andhra Pradesh, Hyderabad under section 80 of the AP Education Act, 1982.

3. The Commissioner of Technical Education, Andhra Pradesh, Hyderabad set aside the said punishment orders vide his proceedings 1st read above, with a liberty to the management to pursue the disciplinary proceedings, from the stage where it has deviated the enquiry, call for the explanation from the incumbent on the proposed punishment as the charges are said to be grave and held to be proved in the enquiry and complete the enquiry within one month.

4. Aggrieved by the proceedings of the Commissioner of Technical Education, Andhra Pradesh, Hyderabad in the reference 1st read above, the Management of the Bapatla Engineering college filed second appeal before the Government u/s 81 of the Education Act, 1982 and the Government have stayed the orders of the Commissioner of Technical Education, Andhra Pradesh, Hyderabad issued in the reference 1st read above in Memo.No.PSP9497/EC.2/2007-1, dt.14.6.2007.

5. The Hon'ble High Court of Andhra Pradesh in their orders dt.7.7.2009 in WP No.13392 of 2009 filed by the N.Subba Rao, working in Chemistry Dept., in Bapatla Engineering College, Bapatla has directed the Government to *deal with the appeal, on its merits and pass appropriate orders thereon, after providing an opportunity to both the sides to make their submissions. Let this exercise be completed on or before 30th September, 2009*

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6. In accordance with the direction of Hon'ble High Court and based on the appeal filed by Management of Bapatla Engineering College notices were issued and personal hearing was given to the Management as well as Sri N.Subba Rao on 25.9.2009. Both the parties have appeared before the then Principal Secretary to Government (FAC) and submitted their contentions.

7. When the matter stood thus, the Government have appointed the regular Principal Secretary to Government, Higher Education Department in G.O.MS.No.6074, G.A. (Spl.A) Dept., dt.19.12.2009.

8. In order to comply the orders of the Hon'ble High Court, the Principal Secretary, Higher Education Department has again issued notices to the affected parties and personal hearing was given to the Management as well as Sri N.Subba Rao on 21.01.2010.

9. After perusal of the records & hearing both the parties the following is observed:-

- (a) It is observed that it is not the case of the 1st Appellate Authority i.e., Commissioner of Technical Education, Andhra Pradesh, Hyderabad that any of the grounds mentioned under Section 80 of the A.P.Education Act, 1982 is not attracted in this case.
- (b) The contention of the Commissioner of Technical Education, Andhra Pradesh, Hyderabad is that the Management did not seek prior permission u/s 79 of A.P. Education Act, 1982. As verified from the records, it is observed that the Management has requested the CTE in their Ir.dt.13.6.2005 to accord permission / approval u/s 79 of AP Education Act for imposing punishment of reversion on Mr. N.Subba Rao. The Commissioner of Technical Education, Andhra Pradesh, Hyderabad, that in his letter dt.9.8.2005 has requested the management to take appropriate action in consultation with legal counsel, in view of the provisions of the AP Education Act and Judgment of Supreme Court. In view of the above, the contention of the 1st Appellate Authority i.e., Commissioner of Technical Education, Andhra Pradesh, Hyderabad that they did not seek prior permission u/s 79 of A.P. Education Act, 1982 for imposition of the punishment i.e., reverting back to Lab Technician can not be supported.
- (c) The contention of Sri N.Subba Rao is that the President of Bapatla Engineering College is not competent person to take any disciplinary action against the employees of the college in general and against him in particular as said in Section 24 (2) of the Education Act, 1982. But the Section 24 (2) of the Education Act, 1982 says that "*the management shall, for the purposes of this Act, nominate a person to manage the affairs of the institution, whether called by the name of secretary, correspondent or **by any other name**, and intimate such nomination within thirty days thereof to the competent authority.* Hence, the contention of Sri N. Subba Rao is not supportive.

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10. Considering all the above facts the Government, after careful examination of the entire matter hereby set aside the orders of the Commissioner of Technical Education, Andhra Pradesh, Hyderabad in proceedings No.E4/34755/02-Vol.II, dt.23.4.2007 and up held the proceedings Ref:BEC/PF/1832, dt.22.8.2005 of the petitioner Management accordingly.

11. The Commissioner of Technical Education, Andhra Pradesh, Hyderabad shall take necessary action in the matter.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

C.R.BISWAL
PRINCIPAL SECRETARY TO GOVERNMENT

To
The President, Bapatla Engineering College, Bapatla
The Commissioner of Technical Education, Andhra Pradesh, Hyderabad.
Sri N.Subba Rao, Lab Technician, Dept. of Chemistry,
Bapatla Engineering College, Bapatla – 522 101, Guntur District.
The Government Pleader for Higher Education, A.P.High Court,
Hyderabad (w.r.to orders in WP No.13392 of 2009)
Copy to:
The Principal, Bapatla Engineering College, Bapatla.
SF/SC

//Forwarded by Order//

SECTION OFFICER